

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Ignacio Ramirez de Leon and Jose Navarrete
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: October 4, 2017
SUBJECT: Proposed initiative measure 2017-2018 #58, concerning Access to Division of Motor Vehicles Services

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Purposes

The major purposes of the proposal appear to be:

1. To state the need to increase the number of driver's license offices and increase the availability of appointments that issue driver's licenses; and
2. To make renewing a driver's license less tedious.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (8) of the Colorado constitution requires that the following enacting clause be the style for all laws adopted by the initiative: "Be it Enacted by the People of the State of Colorado." To comply with this constitutional requirement, this phrase should be added to the beginning of the proposed initiative.
2. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
3. What will be the effective date of the proposed initiative?
4. Under section 1-40-105.5, Colorado Revised Statutes, the director of research of the legislative council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
 - a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
 - b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
 - c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least 12 days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the legislative council staff at BallotImpactEstimates.ga@state.co.us.
5. Under article V, section 1 (2) of the Colorado constitution, proposed initiatives amend either the Colorado constitution or state law (i.e., the Colorado Revised Statutes).
 - a. Does the proposed initiative amend the Colorado constitution or the Colorado Revised Statutes?
 - b. In accordance with section 1-40-102 (4), Colorado Revised Statutes, and for publication purposes, an amending clause should be used to show where in the Colorado constitution or Colorado Revised Statutes a

proposed initiative's provisions should be inserted. Where will the proposed initiative be placed? (Please indicate through an amending clause where the proposed initiative will be placed.)

- c. Article V, section 1 (5) of the Colorado constitution and section 1-40-102 (4), Colorado Revised Statutes, require a proponent to submit for review and comment the full text of the measure being proposed, which, if passed, becomes the actual language of the constitution or statute. You have submitted an idea, rather than the actual language that would be added to the Colorado constitution or Colorado Revised Statutes. Please amend your proposal to include the actual text of your proposed constitutional or statutory change.
6. The proposal states that “only 3 [DMV] offices comply with the law.” What law is that, and why do the other DMV offices not comply?
7. What is the significance of the references to the individual taxpayer identification number (ITIN) and social security number (SSN)? Do you wish to require the DMV to issue a driver's license to a person who has a SSN but not an ITIN? If so, should the proposal amend the text of section 42-2-505 (1)(c), Colorado Revised Statutes, where the ITIN requirement is located?
8. What aspects of the driver's license renewal process do you consider “tedious,” and why? Could those be listed, or should a different process be set forth in the text of the proposal?
9. Should the proposal include a statutory or constitutional change to the legal requirement that, after 60,000 driver's licenses are issued, “the number of DMV offices ... will be reduce[d] to one”?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

Recommendations on the format and style of proposed initiatives

1. *Sections and numbering*

An initiative proposal should indicate where the text of the proposed measure will be located in the state constitution or the Colorado Revised Statutes. The text should be placed in a location that is suitable for the subject of the measure, and the measure should be divided into numbered subdivisions and given section headings as appropriate.

- a. ***Proposal to amend the state constitution:*** The state constitution is divided into articles and sections. Articles are numbered with Roman numerals [I, II, III...] and described with a title. For example:

ARTICLE V

Legislative Department

Sections of the constitution are numbered with Arabic numbers followed by a descriptive headnote in bold-face type. The headnote may contain multiple descriptive words or phrases separated by hyphens. Some sections contain subsections, set off by numerals in parentheses. For example:

Section 2. Election of members - oath - vacancies. (1) A general election for members of the general assembly shall be held on the first Tuesday after the first Monday in November in each even-numbered year, at such places in each county as now are or hereafter may be provided by law.

(2) Each member of the general assembly, before he enters upon his official duties, shall take an oath or affirmation to support the constitution of the United States and of the state of Colorado and to faithfully perform the duties of his office according to the best of his ability. This oath or affirmation shall be administered in the chamber of the house to which the member has been elected.

(3) Any vacancy occurring in either house by death, resignation, or otherwise shall be filled in the manner prescribed by law. The person appointed to fill the vacancy shall be a member of the same political party, if any, as the person whose termination of membership in the general assembly created the vacancy.

A proposal to amend the state constitution should specify the article and section to be modified or added. When amending provisions smaller than a constitutional section, state the constitutional section and article numbers before the "amend," "add," or "repeal" instruction. When amending a constitutional section or a larger provision, state the

"amend," "add," or "repeal" instruction before the provision number. This may be done with an "amending clause," for example:

In the constitution of the state of Colorado, section 2 of article V, **amend** (1) as follows:

Or:

In the constitution of the state of Colorado, **add** article XXX as follows:

- b. ***Proposal to amend the Colorado Revised Statutes:*** The Colorado Revised Statutes are organized by subject into 44 titles, from Title 1 (Elections) to Title 43 (Transportation). Each title is divided into articles. Some articles are further divided into parts, and each article or part contains sections that can be further divided into subsections, paragraphs, subparagraphs, and sub-subparagraphs. The purpose of this sectioning hierarchy is to organize the statutes by topic and separate individual provisions into relatively short sections that are easy for readers to locate and read. Each section in the Colorado Revised Statutes has a three-part number. The first number specifies in which of the 44 titles the section is located. The second number indicates the article within that title, and the third number is the number of the section itself. For example, the statute on the procedure for filing an initiative petition is section 1-40-105, Colorado Revised Statutes. This number indicates that the statute is section 105 within article 40 (Initiative and Referendum) of Title 1 (Elections). Within a section, the text may be divided into subsections with numbers [(1), (2), (3)...], paragraphs with lower-case letters [(a), (b), (c)...], subparagraphs with Roman numerals [(I), (II), (III)...], and sub-subparagraphs with upper-case letters [(A), (B), (C)...]. A section may use all, some, or none of these internal divisions, as appropriate. For an example of a section that uses these divisions down to the subparagraph level, see section 1-40-106.5, Colorado Revised Statutes. A proposal to amend the state statutes should specify the title, article, and section to be modified or added. When amending a provision smaller than a section, state the section number before the "amend," "add," or "repeal" instruction. When amending a section or larger, state the "amend," "add" or "repeal" instruction before listing the provision to be amended. This may be done with an "amending clause." If the proposed initiative modifies an existing statute, the amending clause may be in this form:

In Colorado Revised Statutes, **amend** 1-40-105 as follows:

Or:

In Colorado Revised Statutes, 1-40-105, **amend** (1) as follows:

If the proposed initiative adds a new provision to the statutes, the amending clause may be written as in one of the following examples, depending on whether the proposal adds a new section, part, or article:

In Colorado Revised Statutes, **add** part 3 to article 40 of title 1 as follows:

Or:

In Colorado Revised Statutes, **add** 1-40-207.6 as follows:

Or:

In Colorado Revised Statutes, **add** article 5.5 to title 1 as follows:

If a new section or article fits most logically between two existing provisions, it may be given a number including a decimal. For example, a proposed section to be added between sections 1-40-104 and 1-40-105, Colorado Revised Statutes, could be numbered as section 1-40-104.5. Decimals may also be used to insert new subsections [e.g. (1.5)], paragraphs [e.g. (a.5)], and other subdivisions within sections. The number of each section in the Colorado Revised Statutes is followed by a descriptive headnote in bold-face type. The headnote may contain multiple descriptive words or phrases, separated by hyphens, describing each of the main provisions in the section. Please note that under section 2-5-113 (4), Colorado Revised Statutes, the placement, headings, and numbers of statutory provisions are not "part of the legislative text but ... only for the purpose of convenience, orderly arrangement, and information."

2. ***How to show proposed changes in the law:*** New language to be added to the state constitution or statutes by the proposed initiative should be indicated in small capital letters. THIS IS AN EXAMPLE OF SMALL CAPITAL LETTERS. Language to be deleted from an existing constitutional or statutory provision should be shown in strike type. ~~This is an example of strike type.~~ If an entire section or other subdivision is deleted by a proposed measure, a "repealer clause" may be used

instead of an amending clause. The repealer clause may simply refer to the deleted provision, or the repealed language may be shown in strike type. For example:

In Colorado Revised Statutes, **repeal** 1-40-101.

Or:

In Colorado Revised Statutes, **repeal** 1-40-101 as follows:

1-40-101. Legislative declaration. ~~It is not the intention of this article to limit or abridge in any manner the powers reserved to the people in the initiative and referendum, but rather to properly safeguard, protect, and preserve inviolate for them these modern instrumentalities of democratic government.~~

3. **Conforming amendments:** If a proposed initiative amends or repeals an existing constitutional or statutory provision, it may be necessary to make conforming amendments to other provisions that refer to or are affected by the provision being amended or repealed. Cross-references can be found by searching the online database of the state constitution and Colorado Revised Statutes: <http://www.michie.com/colorado>
4. **Other clauses:** It may be appropriate to include certain other provisions in a proposed initiative, including:
 - a. *Effective date clause:* An effective date clause specifies when the proposed measure will take effect. For example, "This section takes effect January 1, 2019."
 - b. *Applicability clause:* An applicability clause indicates a time period or event to which the changes in the law will apply. Depending on the proposal, an appropriate applicability clause might specify that the changes enacted by the initiative apply to fiscal years or tax years beginning on and after the effective date, or to offenses committed, civil actions filed, or transactions entered into on and after the effective date.
 - c. *Penalty clause:* If a proposed measure requires or prohibits certain conduct, it may be appropriate to specify the penalty for noncompliance with the law. A proposed initiative that creates a new criminal offense should specify the class of felony, misdemeanor, or petty offense to which the offense belongs. For reference, the statute on the classification of offenses is section 18-1-104, Colorado Revised Statutes. The penalties

for the various classes of felonies, misdemeanors, and petty offenses are specified in sections 18-1.3-401, 18-1.3-501, and 18-1.3-503, Colorado Revised Statutes, respectively.

- d. *Statement of intent:* It may be desirable to include a statement in the text of a proposed initiative describing the general purpose and intent of the measure. Such statements can be helpful to courts when attempting to resolve any ambiguities in the meaning of the constitutional or statutory provisions.
 - e. *Definitions section:* If a proposed initiative uses special terms or intends for certain words to have a specific meaning other than their common meaning, it may be useful to include a section defining those terms.
5. ***Style of legislative drafting:*** The meaning of a proposed initiative will be clearer to readers if the text follows certain standard rules of style for legislative drafting. For an explanation of these rules, please see chapter 5 of the Colorado Legislative Drafting Manual, Special Rules And Techniques Of Drafting And Grammar And Style, beginning on page 5-1, which may be found at the following link: <http://leg.colorado.gov/publications/legislative-drafting-manual>
6. If the proposed initiative amends more than one section of existing law (either the constitution or the Colorado Revised Statutes), those amendments should be separated into different sections of the proposed initiative. In that case, before the amending clause for each of the amendments, add a section number (e.g., SECTION 1., SECTION 2.). For example:

SECTION 1. In the constitution of the state of Colorado, **add** article XXX as follows:

7. ***Further information:*** For more information on the use of particular words in statutes and how courts interpret statutory provisions, please see article 4 of title 2, Colorado Revised Statutes.